



U.S. Department of Justice

Immigration and Naturalization Service

C

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

FILE: [REDACTED] Office: Texas Service Center

Date: MAR 22 2000

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

72 Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, who certified his decision to the Associate Commissioner, Examinations, for review. The case will be remanded to the director for further action.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act of November 2, 1966. This Act provides for the adjustment of status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for at least one year, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The director determined that the applicant was not eligible for adjustment of status because she was not inspected and admitted or paroled into the United States. The director, therefore, denied the application.

In response to the notice of certification, the applicant states that she erroneously "filled in letter E instead of letter D" as her reason for applying for adjustment of status. She submits a copy of the Service letter dated December 5, 1996, advising the applicant that in accordance with section 208(a) of the Immigration and Nationality Act, 8 U.S.C. 1158, her request for asylum is granted as of the date of the letter.

On January 16, 1998, the applicant filed her application for adjustment of status to permanent residence. Because the record reflects that the applicant entered the United States without inspection on July 16, 1995 at [REDACTED] the director determined that the applicant was not eligible for adjustment of status. The applicant, however, claims that she filed for adjustment of status as an alien granted asylum under "letter D" of the application, but that she erroneously "filled in letter E" as a native or citizen of Cuba under section 1 of the Cuban Adjustment Act.

The case will, therefore, be remanded in order that the director may readjudicate the application for adjustment of status. The director shall enter a new decision which, if adverse to the applicant, is to be certified to the Associate Commissioner, Examinations, for review.

ORDER: The director's decision is withdrawn. The case is remanded for appropriate action consistent with the above discussion and entry of a new decision.